

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MYRON PRIEST,)	Case No. 1:08 CV 2028
)	
Petitioner,)	Judge Dan Aaron Polster
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
STUART HUDSON, WARDEN,)	
)	
Respondent.)	

Before the Court is the Report and Recommended Decision of Magistrate Judge George Limbert, issued on October 7, 2009 (“R & R”) (*ECF No. 12*). The Magistrate Judge recommends that the Court dismiss Ground Two of the Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 (“Habeas Petition”) filed by Petitioner Myron Priest.¹

Under the relevant statute:

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C) (1988) (emphasis added). On October 19, 2009, Petitioner moved for

¹On September 15, 2009, the Court adopted the Magistrate Judge’s Interim Report and Recommended Decision that Grounds One, Three and Four of the habeas petition be denied. *ECF No. 10*.

an extension to file objections to the R & R. *ECF No. 13*. On October 20, 2009 the Court, at its discretion, granted Petitioner until November 23, 2009, to file objections. *ECF No. 14*. It is now November 25, 2009, and Petitioner has still not filed an objection to the R & R nor requested another extension of time to file an objection.

The failure to timely file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's comprehensive, well-written R&R and agrees with the Magistrate Judge's conclusions. Accordingly, the Court hereby **ADOPTS** the Report and Recommended Decision of the Magistrate Judge (*ECF No. 12*). Ground Two of the Petition is hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

/s/ Dan Aaron Polster November 25, 2009
Dan Aaron Polster
United States District Judge